

**ASSEMBLY BILL**

**No. 2629**

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**Introduced by Assembly Member Bonnie Lowenthal**

February 19, 2010

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An act to amend Sections 1566.45 and 1568.0832 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2629, as introduced, Bonnie Lowenthal. Residential facilities.

Existing law provides for the licensing and regulation of residential facilities under the California Community Care Facilities Act and residential care facilities for persons with chronic life-threatening illness by the State Department of Social Services. Violation of these provisions constitutes a misdemeanor.

Under existing law, bedridden persons may be admitted to, and remain in, any of the above-described residential facilities if the facility secures and maintains an appropriate fire clearance. Under existing law, a person is not classified as “bedridden” if they have a temporary illness that persists for 14 days or less.

This bill would, instead, exclude from the definition of “bedridden” a temporary illness or recovery from surgery that persists for 14 days or less. The bill would also permit a residential facility to retain a bedridden client in excess of 14 days if prescribed conditions are met.

This bill would prohibit a community care facility from admitting or retaining a client if he or she requires 24-hour skilled nursing care. The bill would also require a residential facility that admits or retains a bedridden person, within 48 hours of admission or retention, to notify the local fire authority of the estimated length of time that the person will retain his or her bedridden status in the facility.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1566.45 of the Health and Safety Code  
2 is amended to read:

3 1566.45. (a) (1) For purposes of this section, “bedridden”  
4 means requiring assistance in turning and repositioning in bed or  
5 being unable to independently transfer to and from bed, except in  
6 a facility with appropriate and sufficient care staff, mechanical  
7 devices, if necessary, and safety precautions, as determined by the  
8 director in regulations.

9 (2) In developing the regulations for child residential facilities,  
10 the department shall take into consideration the size and weight  
11 of the child.

12 (3) For purposes of this section, the status of being bedridden  
13 shall not include ~~having any~~ a temporary illness or recovery from  
14 surgery that persists for 14 days or less.

15 (4) The determination of the bedridden status of persons with  
16 developmental disabilities shall be made by the Director of Social  
17 Services or his or her designated representative, in consultation  
18 with the Director of Developmental Services or his or her  
19 designated representative, after consulting the resident’s individual  
20 safety plan. The determination of the bedridden status of all other  
21 persons with disabilities who are not developmentally disabled  
22 shall be made by the Director of Social Services, or his or her  
23 designated representative.

24 (b) *No client shall be admitted to or retained in a residential*  
25 *facility if he or she requires 24-hour skilled nursing care.*

26 ~~(b) Bedridden persons~~

27 (c) *A bedridden person may be admitted to, and remain in, a*  
28 *residential-facilities facility that-secure secures and-maintain*

1 *maintains* an appropriate fire clearance. A fire clearance shall be  
2 issued to a facility in which one or more bedridden persons reside  
3 if either of the following conditions are met:

4 (1) The fire safety requirements are met. Clients who are unable  
5 to independently transfer to and from bed, but who do not need  
6 assistance to turn or reposition in bed, shall be considered  
7 nonambulatory for purposes of this paragraph.

8 (2) Alternative methods of protection are approved.

9 *(d) Notwithstanding paragraph (2) of subdivision (b), a*  
10 *bedridden client may be retained in a residential facility in excess*  
11 *of 14 days if all of the following requirements are satisfied:*

12 *(1) The facility notifies the department in writing that the person*  
13 *is recovering from a temporary illness or surgery.*

14 *(2) The facility submits to the department, with the notification*  
15 *required in paragraph (1), a physician and surgeon's written*  
16 *statement to the effect that the client's illness or recovery is of a*  
17 *temporary nature. The statement shall contain an estimated date*  
18 *upon which the illness or recovery is expected to end or upon*  
19 *which the client is expected to no longer be confined to bed.*

20 *(3) The department determines that the client's health and safety*  
21 *is adequately protected in the facility and that transfer to a higher*  
22 *level of care is not necessary.*

23 *(4) This subdivision does not expand the scope of care and*  
24 *supervision of a residential facility.*

25 *(e) Notwithstanding the length of stay of a bedridden client,*  
26 *every residential facility admitting or retaining a bedridden client*  
27 *shall, within 48 hours of the client's admission or retention in the*  
28 *facility, notify the local fire authority with jurisdiction over the*  
29 *bedridden client's location of the estimated length of time the client*  
30 *will retain his or her bedridden status in the facility.*

31 ~~(e)~~

32 *(f) (1) The department and the Office of the State Fire Marshal,*  
33 *in consultation with the State Department of Developmental*  
34 *Services, shall each promulgate regulations that meet all of the*  
35 *following conditions:*

36 *(A) Are consistent with ~~subdivision (a)~~ this section.*

37 *(B) Are applicable to facilities regulated under this chapter,*  
38 *consistent with the regulatory requirements of the California*  
39 *Building Standards Code for fire and life safety for the respective*

1 occupancy classifications into which the State Department of Social  
2 Services' community care licensing classifications fall.

3 (C) Permit ~~residents~~ *clients* to remain in homelike settings.

4 (2) At a minimum, these regulations shall do both of the  
5 following with regard to a residential care facility that provides  
6 care for six or fewer ~~residents~~ *clients*, at least one of whom is  
7 bedridden:

8 (A) Clarify the fire and life safety requirements for a fire  
9 clearance for the facility.

10 (B) Identify procedures for requesting the approval of alternative  
11 means of providing equivalent levels of fire and life safety  
12 protection. Either the facility, the ~~resident~~ *client* or ~~resident's~~  
13 *client's* representative, or local fire official may request from the  
14 Office of the State Fire Marshal a written opinion concerning the  
15 interpretation of the regulations promulgated by the State Fire  
16 Marshal pursuant to this section for a particular factual dispute.  
17 The State Fire Marshal shall issue the written opinion within 45  
18 days following the request.

19 ~~(d)~~

20 (g) For facilities that care for six or fewer clients, a local fire  
21 official shall not impose fire safety requirements stricter than the  
22 fire safety regulations promulgated for the particular type of facility  
23 by the Office of the State Fire Marshal or the local fire safety  
24 requirements imposed on any other single family dwelling,  
25 whichever is more strict.

26 ~~(e)~~

27 (h) This section and ~~any~~ regulations promulgated thereunder  
28 shall be interpreted in a manner that provides flexibility to allow  
29 bedridden persons to avoid institutionalization and be admitted to,  
30 and safely remain in, community-based residential care facilities.

31 SEC. 2. Section 1568.0832 of the Health and Safety Code is  
32 amended to read:

33 1568.0832. (a) (1) For purposes of this section, "bedridden"  
34 means requiring assistance in turning and repositioning in bed or  
35 being unable to independently transfer to and from bed, except in  
36 a facility with appropriate and sufficient care staff, mechanical  
37 devices, if necessary, and safety precautions, as determined by the  
38 director in regulations.

1 (2) For purposes of this section, the status of being bedridden  
2 shall not include ~~having any~~ *a temporary illness or recovery from*  
3 *surgery* that persists for 14 days or less.

4 (3) The determination of the bedridden status of persons with  
5 developmental disabilities shall be made by the Director of Social  
6 Services or his or her designated representative, in consultation  
7 with the Director of Developmental Services or his or her  
8 designated representative, after consulting the resident's individual  
9 safety plan. The determination of the bedridden status of all other  
10 persons with disabilities who are not developmentally disabled  
11 shall be made by the Director of Social Services, or his or her  
12 designated representative.

13 (b) ~~Bedridden persons~~ *A bedridden person* may be admitted to,  
14 and remain in, ~~a residential facilities that secure and maintain~~  
15 *facility that secures and maintains* an appropriate fire clearance.  
16 A fire clearance shall be issued to a facility in which one or more  
17 bedridden persons reside if either of the following conditions are  
18 met:

19 (1) The fire safety requirements are met. Residents who are  
20 unable to independently transfer to and from bed, but who do not  
21 need assistance to turn or reposition in bed, shall be considered  
22 nonambulatory for purposes of this paragraph.

23 (2) Alternative methods of protection are approved.

24 (c) *Notwithstanding paragraph (2) of subdivision (a), a*  
25 *bedridden resident may be retained in a residential care facility*  
26 *in excess of 14 days if all of the following conditions are met:*

27 (1) *The facility notifies the department in writing that the person*  
28 *is recovering from a temporary illness or surgery.*

29 (2) *The facility submits to the department, with the notification*  
30 *required in paragraph (1), a physician and surgeon's written*  
31 *statement to the effect that the resident's illness or recovery is of*  
32 *a temporary nature. The statement shall contain an estimated date*  
33 *upon which the illness or recovery is expected to end or upon*  
34 *which the resident is expected to no longer be confined to bed.*

35 (3) *The department determines that the resident's health and*  
36 *safety is adequately protected in the facility and that transfer to a*  
37 *higher level of care is not necessary.*

38 (4) *This subdivision does not expand the scope of care and*  
39 *supervision of a residential care facility.*

(d) *Notwithstanding the length of stay of a bedridden resident, every residential facility admitting or retaining a bedridden resident shall, within 48 hours of the resident's admission or retention in the facility, notify the local fire authority with jurisdiction over the bedridden resident's location of the estimated length of time the resident will retain his or her bedridden status in the facility.*

~~(e)~~

(e) (1) The department and the Office of the State Fire Marshal, in consultation with the State Department of Developmental Services, shall each promulgate regulations that meet all of the following conditions:

(A) Are consistent with ~~subdivision (a)~~ *this section*.

(B) Are applicable to facilities regulated under this chapter, consistent with the regulatory requirements of the California Building Standards Code for fire and life safety for the respective occupancy classifications into which the State Department of Social Services' community care licensing classifications fall.

(C) Permit residents to remain in homelike settings.

(2) At a minimum, these regulations shall do both of the following with regard to a residential care facility that provides care for six or fewer ~~clients~~ *residents*, at least one of whom is bedridden:

(A) Clarify the fire and life safety requirements for a fire clearance for the facility.

(B) Identify procedures for requesting the approval of alternative means of providing equivalent levels of fire and life safety protection. Either the facility, the resident or resident's representative, or local fire official may request from the Office of the State Fire Marshal a written opinion concerning the interpretation of the regulations promulgated by the State Fire Marshal pursuant to this section for a particular factual dispute. The State Fire Marshal shall issue the written opinion within 45 days following the request.

~~(d)~~

(f) For facilities that care for six or fewer ~~clients~~ *residents*, a local fire official shall not impose fire safety requirements stricter than the fire safety regulations promulgated for the particular type of facility by the Office of the State Fire Marshal or the local fire

1 safety requirements imposed on any other single family dwelling,  
2 whichever is more strict.

3 (e)

4 (g) This section and any regulations promulgated thereunder  
5 shall be interpreted in a manner that provides flexibility to allow  
6 bedridden persons to avoid institutionalization and be admitted to,  
7 and safely remain in, community-based residential care facilities.

8 SEC. 3. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.